

Applicant: David A. Esposito
Application No.: 10/672,590

Remarks

Status

Claims 17-28, 30, 33-34 and 36-43 are pending in the Application. The Examiner withdrew claims 17-27 as directed to an apparatus invention. Claims 28, 30, 33-34 and 36-42 were rejected for the reasons defined in the Office Action. Claim 43 was objected to as being dependent upon a rejected base claim, but would be allowable if rewritten.

Discussion

The undersigned Applicant's attorney again thanks the Examiner for the November 3, 2005 telephone conference.

Claim 28 has been amended to correct a typographical error.

The Examiner has rejected Claims 28, 30, 33-34, 36-37, 39-40 and 42 under 35 U.S.C. 103(a) over U.S. Patent No. 5,118,113 to Ahlers *et al.* Claim 38 was rejected under 35 U.S.C. 103(a) over Ahlers *et al.* in view of U.S. Patent No. 5,882,008 to Siegesmund. Claim 41 was rejected under 35 U.S.C. 103(a) over Ahlers *et al.* in view of U.S. Patent No. 5,295,834 to Saunders.

Ahlers teaches a game designed to educate players about the ecological

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system. For the most part, the Ahlers game is a game of chance, with players advancing on a game board according to chance. However, there are two "Think Tank" spaces (spaces 10 and 22) on the Ahlers game board, which require a player landing on said spot to "address an environmental problem and attempt to create a solution to that particular problem." Col. 8, Lns. 19-20. In the Office Action, the Examiner argues that this Think Tank portion of the Ahlers' game teaches Applicant's invention.

However, unlike in Applicant's game invention, Ahlers does not teach a player-in-turn being provided with a hypothetical real-life scenario. In Ahlers, a player landing on the Think Tank spot must, on his or her own, think of an environmental problem and propose a solution. The player is not "presented" with a "scenario," as is stated in Claims 28 and 33 in the Application, or even a list of scenarios from which to choose. Col. 8, Lns. 17-37. The Ahlers player must create a problem to solve without any guidance whatsoever except that the problem must relate to an environmental issue.

The Ahlers Think Tank situation also is different than what is disclosed in Applicant's invention in that a player's answer in Applicant's game must provide "at least one principle, from a list of pre-determined principles, that assisted in their response." See Applicant's Claims 28 and 33. There is no requirement in Ahlers that the player providing the answer also has to provide a principal. The Ahlers player simply must create an environmental problem and solve it. Furthermore,

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there is no list of pre-determined principles that an Ahlers game player must use during the Think Tank phase of the game.

The remaining claims depend from claim 28 or 33 and, therefore, also are allowable for at least the reasons discussed above and for the further features recited therein.

Finally, Applicant requests that the Examiner reconsider the withdrawal of Claims 17-27 (apparatus claims). The previous addition of the "game board" element to Claims 28 and 33 further clarifies that a search for the method claims (Claims 28, 30, 33-34, 36-43) would also include a search for the apparatus claims. The Examiner's second search in this Application, after Applicant filed the RCE, was a search based on the game being played with a game board, as stated in previously revised Claims 28 and 33. Therefore, there is no difference between the type of search required for the "apparatus" claims and the "method" claims.

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Conclusion

For the foregoing reasons, Applicant respectfully submits that claims 28, 30, 33-34, 36-43 are in condition for allowance. Claims 17-27 also are in condition for allowance. Early allowance of all said claims is requested.

The undersigned would welcome the opportunity to further discuss this case with the Examiner by telephone if so desired by the Examiner.

Respectfully submitted,

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